

# EXHIBIT E

### **Our Background**

Lovell Mitchell & Barth, LLP (“LM&B”) is a national law firm with offices in Seattle and New York (through our affiliated firm of Lovell Stewart & Halebian LLP). We are dedicated to providing clients with the ability to identify, investigate and react decisively to recover losses from wrongdoing by the companies in which they have invested.

LM&B attorneys have been appointed as lead or co-lead counsel in numerous class actions of national significance. We directed securities fraud and other investor litigation which resulted in the largest class action recovery ever obtained *under three different federal statutes*. As co-lead counsel in a nationwide suit against NASDAQ market makers, our attorneys garnered \$1.027 billion for investor class members by illustrating that the defendants had systematically overcharged for executing trades. *In re NASDAQ Market-Makers Antitrust Litigation*, 187 F.R.D. 465, 471 (S.D.N.Y. 1998) (“this all-cash settlement, achieved through ‘four years of hard-fought litigation,’ apparently is the largest recovery (class action or otherwise) in the hundred year history of the state and federal antitrust laws”). We have also functioned as lead or co-lead counsel representing investors in numerous other securities fraud litigations returning hundreds of millions of dollars to these investors.

## **Individual Resumes**

### **Christopher Lovell**

Chris, the managing partner of our New York affiliate, Lovell Stewart & Halebian, has tried more than fifty cases, including numerous highly-publicized cases that have resulted in significant legal precedent. Chris graduated from New York University School of Law in 1977, and was associated with the law firm of Beekman & Bogue from 1976 until 1980. Chris has maintained a private law practice since 1980, including while he was simultaneously employed as Vice-President and General Counsel of American Bakeries Company (a *Fortune* 500 company) from 1981 through 1983. Chris has an “AV” rating from Martindale-Hubbell, and was first appointed by a Court as class action or derivative action counsel in 1981, and has since been appointed as class or derivative action counsel in more than forty cases, including:

- Co-lead counsel in *In re NASDAQ Market-Makers Antitrust Litigation*, M.D.L. No. 123 (S.D.N.Y.). This case resulted in a record \$1.027 billion settlement for the class of injured investors;
- Coordinating Chairman, Plaintiffs’ Executive Committee in *In re Initial Public Offering Antitrust Litigation*, 01 Civ. 2014 (S.D.N.Y.). This is a highly-publicized class action alleging a conspiracy by certain underwriters to restrain trade in the allocation of shares in initial public offerings;
- Lead Counsel and Chairman of Executive Committee in *In re Sumitomo Copper Litig.*, 74 F. Supp. 2d 393 (S.D.N.Y. 1999). Chris settled this case for a record \$145.9 million – the largest in the history of the Commodity Exchange Act – earning the praise of Senior Judge Milton Pollack of the U.S. District Court for the Southern District of New York.<sup>1</sup>;
- Lead Counsel in *In re The Warnaco Group, Inc.*, 01 Civ. 3346 (S.D.N.Y.). This nationwide securities class action case is currently pending in U.S. District Court for the Southern District of New York;
- Lead Counsel in *Leykin v. AT&T Corp., et al*, 02 Civ. 1765 (S.D.N.Y.), a nationwide class action securities fraud litigation regarding the failure of At Home – one of the original “internet stock” disasters;
- Co-lead counsel in *Blatt v. Merrill Lynch Fenner & Smith, Incorporated*, 916 F. Supp. 1343 (D.N.J. 1996) \$76.5 million settlement which recovered 100% of losses and provided class members with a positive return on their investment;

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<sup>1</sup> “The unprecedented effort of Counsel exhibited in this case led to their successful settlement efforts and its vast results. Settlement posed a saga in and of itself and required enormous time, skill and persistence. Much of that phase of the case came within the direct knowledge and appreciation of the Court itself. Suffice it to say, the Plaintiff’s counsel did not have an easy path and their services in this regard are best measured in the enormous recoveries that were achieved under trying circumstances in the face of virtually overwhelming resistance.” *In re Sumitomo Copper Litigation*, 74 F.Supp. 2d at 396.

- Sole Class Counsel in *Moelis v. Hyperion Capital Management, Inc.*, 94 Civ. 3328 (S.D.N.Y.). After securities claims made by two earlier lawsuits had been dismissed in their entirety, Chris pursued those claims on somewhat different legal theories leading to a settlement of \$5 million;
- Member of the Executive Committee in the *J.P. Morgan Chase Securities Litigation*. This case is currently pending in U.S. District Court in Manhattan, and alleges that J.P. Morgan Chase materially misrepresented its Enron-related liabilities in various public statements and SEC filings;
- Co-lead counsel in *In re Microsoft Litigation*, M.D.L. No. 1332 (D. Md.) Nationally consolidated antitrust class actions alleging long-term unlawful maintenance of a monopoly and other anticompetitive behavior by Microsoft;
- Chairman of the Co-lead counsel in *In re Soybean Futures Litigation*, 89 Civ. 7009 (N.D. Ill.) \$21.5 million settlement returning all losses to class members, even after attorneys' fees;
- Lead counsel in *Kaplan v. E.F. Hutton Group, Inc.*, No. 88-00889 (N.Y. Sup. Ct.) \$8.18 million settlement providing a class of terminated executives substantially all of their damages, even after attorneys' fees were deducted from the settlement; and
- Member of the Executive Committee in numerous other cases, including *In re TCW/DW North American Government Income Trust Securities Litigation*, 95 Civ. 0167 (S.D.N.Y.) (\$30 million settlement); *Krome v. Merrill Lynch, Pierce, Fenner & Smith*, Consolidated 85 Civ. 0765 (S.D.N.Y.) (all claiming class members recovered 100% of their losses).

### **Steven C. Mitchell**

Steve focuses on advising pension funds and institutional investors. Prior to joining Lovell Mitchell & Barth, Steve was a partner at a national firm where he assisted with the actions leading to the 1998 \$206 billion "Master Settlement Agreement" with big tobacco. He also held the position of chief counsel of the trial bureau in the office of the Arizona attorney general. As chief counsel, Steve prosecuted and supervised major cases involving civil and criminal racketeering, political crimes, murder and fraud. His many successes earned him the title of Arizona Attorney General Prosecutor of the Year in 1992. While working as an assistant U.S. attorney for the District of Arizona, Steve served as senior trial attorney and lead counsel to prosecute a group of radical environmentalists who conspired to sabotage a nuclear generating station and a nuclear weapons facility.

### **Karl P. Barth**

Karl represents investors seeking to protect assets and recover investment losses from companies engaged in securities and accounting wrongdoing. Prior to starting the Seattle office of LM&B, Karl was a partner at another national firm specializing in securities class action

litigation. Formerly, he was a Senior Consultant at a national financial consulting firm specializing in expert witness testimony on accounting and financial issues.

Karl has performed the preliminary investigation and drafted the initial complaint in numerous high-profile securities fraud cases that have won large recoveries for his clients against companies such as Boeing, Einstein Noah Bagel Corp., Identix, Midcom Communications, Midisoft, Oppenheimer Delta Partners, Pepsi Puerto Rico Bottling Co., PriceCostco, Templeton Vietnam Opportunities Fund and Wall Data. These cases typically assert claims against the officers and directors of the corporate defendant, its outside auditors, and other responsible parties and involve sophisticated financial and accounting issues.

Karl has worked on the legal, financial and accounting aspects of numerous cases, including the following representative sample:

- In the *Identix* litigation, Karl had primary responsibility for his firm's position as co-lead counsel in this securities fraud case that was filed in the Northern District of California. Karl researched the legal, accounting and factual aspects of the complaint, which included allegations that the Company falsified revenues in its financial statements in violation of Generally Accepted Accounting Principles ("GAAP") and SEC regulations. The case settled for a large percentage of estimated losses, and the recovered money has been distributed to class members;
- In the *Pepsi Puerto Rico Bottling* case, Karl performed the initial analysis and drafted the initial complaint on behalf of an institutional investor acting as a class representative for all injured investors. The case involved allegations of fraudulent financial reporting, and was resolved on very favorable terms for the class;
- In *Boston Chicken Securities Litigation*, Karl uncovered Boston Chicken's complex financial accounting and reporting structure and revealed massive fraud to shareholders and bondholders. Karl drafted and filed the first securities fraud complaint against the company, its' officers, accountants and underwriters; and
- In the *Morrison Knudsen Securities Litigation*, Karl investigated the widespread accounting and auditing improprieties committed by MK and its independent auditor and prepared an amended complaint making detailed allegations of the accounting misconduct by the Company, and audit misconduct by its independent accountant. Shortly after this amended complaint was filed, the case settled for approximately \$70 million, including a multi-million dollar settlement from the auditor, making it one of largest securities settlements in the history of the Pacific Northwest.

Karl graduated from Georgetown University Law Center, and from the University of Virginia with a B.S. in Accounting. Karl is a licensed Certified Public Accountant and a

Certified Fraud Examiner. He is admitted to practice in various state and federal courts throughout the country.

**Richard L. Sullivan**

Richard heads the Client Development Team at LMB. Previously, Richard was a Senior Vice President in the Washington Group, a public affairs and business development firm. Prior to joining the Washington Group, Richard held various political positions, including serving as the National Finance Director and Deputy Finance Director for the Democratic National Committee (DNC) from 1994 through 1996. In this capacity, he served as a senior member of the 1996 Clinton/Gore Re-election Campaign and worked with President Bill Clinton, Vice President Al Gore and senior members of the administration. From 1991 to 1993, Richard was National Fundraising Director for the Democratic Senatorial Campaign Committee (DSCC), serving under DSCC Chairs Senators Charles Robb and Bob Graham. From 1987 to 1991, Richard worked for House Majority Leader Richard Gephardt. He served as Special Assistant in the House Majority's Leader's office where he helped formulate strategic policy for the House Democratic Caucus and also served as a liaison to Democratic business supporters. Richard also worked as a fundraiser on Congressman Gephardt's 1988 Presidential campaign.

Richard has held many volunteer leadership positions in the Democratic Party. He currently serves as Co-Chair of the Democratic Business Council for the Democratic National Committee. He was one of six members of the Kerry-Edwards Fundraising Leadership Team, (the top fundraisers for the Democratic ticket in the general election). Mr. Sullivan served as Finance Chairman of the Gephardt for President 2004 campaign. He was Co-Finance Chair of the Democratic Senatorial Campaign Committee, (DSCC) in 2001, Chair of the DSCC's 2001 Kick-off National Gala and DSCC Chairman for the 2000 Democratic National Convention. In addition, Mr. Sullivan served as Senior Fundraising Advisor to the Gore 2000 campaign and on the State Board of Advisors for the Mike Easley for Governor 2000 campaign. Under President Clinton, Richard served on the Permanent Normalization of Trade Relations, (PNTR) White House advisory committee.

Richard received a B.A. degree with honors from the University of South Carolina and a J.D. from Georgetown University Law Center.

Dennis holds a Bachelors Degree from Hampshire College, Amherst, Massachusetts and a Juris Doctorate Degree from the Georgetown University Law Center. He is a member in good standing of the Pennsylvania Bar Association, the District of Columbia Bar Association, and the United States Supreme Court.

**John Halebian**

John graduated from Georgetown University and received his law degree from Villanova Law School, where he served as a case and comments editor on the *Villanova Law Review*, and as Editor-in-Chief of *The Docket*, the law school's newspaper.

John specializes in federal and state corporate and commercial litigation with an emphasis on class actions and securities litigation. He has represented officers and directors, lawyers and accountants in defending various securities class actions, and has prosecuted numerous securities class actions against many major public companies.

John was formerly a founding member of Wechsler Harwood Halebian & Feffer LLP (now Wechsler Harwood LLP) where he specialized in securities class action and derivative litigation and had responsibility for numerous complex corporate and commercial litigations. John has acted as lead or co-lead counsel, or as a member of an executive or steering committee in class action securities litigation throughout the country, including:

- *Howard Savings Bank Securities Litigation*, 89 Civ. 5148 (D.N.J. 1989) Recovery of \$7.6 million in connection with claims alleging false and misleading statements relating to bank loan loss reserves;
- *Avon Products, Inc. Securities Litigation*, 89 Civ. 6216 (S.D.N.Y. 1989) Recovery of \$6.4 million relating to claims alleging false and misleading statements regarding earnings projections;
- *Goldsmith v. Technology Solutions Co.*, 92 Civ. 4374 (N.D. Ill. 1992) Recovery of \$4.6 million in connection with allegations of false and misleading statements with respect to the Company's revenue recognition policies; and
- *NationsBank Litigations*, John was one of the lead attorneys in several actions pending in state and federal courts against NationsBank relating to its sales of securities to bank customers, which collectively settled for approximately \$60 million. Most of the recipients of awards in the *NationsBank Litigation* received between 50% and 100% of their recognized losses from the settlement.

John has also tried to conclusion several complex commercial and securities fraud litigations on behalf of individual claimants and companies before the New York Stock Exchange and National Association of Securities Dealers and the American Arbitration Association. These actions generally involved brokerage customer claims of churning or unsuitable investments and corporate wrongdoing.



**Other Lovell Mitchell & Barth Attorneys**

**Gary S. Jacobson**

Gary is a 1972 graduate of Yale (with Honors), and a 1976 graduate of the University of Virginia Law School where he served as an editor of the Law Review (1974 – 1976). Gary has been litigating antitrust cases since 1976, including *Westinghouse Electric Corp. v. Ris Algom Ltd.*, et al., (N.D. Ill.) and *Age International, Inc. v. Southern Wine & Spirits*, (E.D.N.Y.). Gary has tried more than twenty-five cases to verdict, involving claims of unfair competition, RICO, Lanham Act, patent infringement, misappropriation of trade secrets, negotiable instruments, sales and warranties, breach of fiduciary duty, fraudulent conveyance, and personal injury. He has an "AV" rating from Martindale-Hubbell.

**Victor E. Stewart**

Victor was named Valedictorian of St. Marks School Class of 1968. He is a 1972 graduate of Yale, B.A., a 1975 graduate of Harvard Business School, M.B.A., and a 1979 graduate of the University of Virginia Law School, J.D. Victor has more than twenty years' experience in the securities field, including securities litigation, public and private securities offerings and financial markets analysis.

**Peggy J. Wedgworth**

Peggy was named Valedictorian of Trinity Episcopal Day School, Class of 1979, and was on the team that placed second in the National Moot Court Competition conducted by the Association of the Bar of the City of New York during 1985/1986. She tried more than twenty criminal cases as an Assistant District Attorney in Brooklyn, New York from 1986 to 1989. Peggy also has extensive experience litigating various securities fraud and price fixing cases including *In re Brand Name Prescription Drugs Antitrust Litigation*, 1996 WL 351180 (N.D. Ill. June 24, 1996), (approving \$351 million settlements as fair) where, among other things, she was in charge of the preparation for the defendants' expert depositions.

**Keri L. Greenheck**

Keri received her law degree from Lewis & Clark Law School and is admitted to practice in California and Washington. Keri previously worked at Milberg Weiss Bershad Hynes & Lerach where she specialized in class action securities litigation. Later, she worked for Hagens Berman LLP where she again specialized in class action securities litigation, working on cases against Sonus Pharmaceuticals, Boston Chicken and Boeing, among others.



**Jody Krisiloff**

Jody is a 1976 graduate of Mount Holyoke College, B.A., *summa cum laude*. She is also a 1979 graduate of Columbia University School of Law, J.D. Jody has more than eighteen years' experience with commercial and securities litigation, including litigating primarily class actions since 1991. She had primary responsibility for preparing this firm's argument in opposition to the motion to dismiss in *In re Microsoft*.

**Ian T. Stoll**

Ian graduated from the University of California at Berkeley, A.B., in 1987, and the State University of New York, Buffalo School of Law, J.D., in 1996. He is admitted to practice in New York and before the United States District Courts for the Southern and Eastern Districts of New York.

**Craig M. Essenmacher**

Craig is a graduate of Michigan State University *summa cum laude* and has a Ph.D. of Philosophy in Chemistry and a B.S. in Chemistry from Michigan State University. Craig was the recipient of the Jurisprudence Award, King Scholarship Program, Alumni Scholarship Award, and the Natural Resources Scholarship Award. Craig is licensed to practice in the State of Michigan, Eastern District of Michigan U.S.D.C, and U.S. Court of Appeals for the Sixth Circuit.

**Christopher M. McGrath**

Christopher is a graduate of the University of Missouri at Columbia, B.A. (with Honors); and a graduate of the University of Missouri at Columbia School of Law. Christopher is admitted to practice in New York.

**Adam C. Mayes**

Adam is a graduate of Yale University, *cum laude*, and received his M.A. in Asian Studies and his J.D. from the University of California, Berkeley. Adam studied at Chiang Mai University, Thailand, and was Legislative Assistant to Members of the Hong Kong Legislative Council, (1993 – 1997). Adam is admitted to practice in California and New York.

**Keith Essenmacher**

Keith is a graduate of Michigan State University, B.S. in Physiology/Pre-Med; and a graduate of Michigan State University Law. Keith is admitted to practice in the State of Michigan, and before the United States District Court for the Eastern District of Michigan.